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10/729,524	12/05/2003	John Templeton	6277CIP	2428

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 03/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/729,524

Applicant(s)

TEMPLETON, JOHN

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12052003.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Priority

The current status of all nonprovisional parent applications referenced should be included.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “slots are curved” (claim 23); “a roller shaft” (claim 8, lines 4-5; claim 19, lines 3-4) acting as the pivot in addition to the “shaft” of claim 1, line 8 and claim 14, line 13; a shaft acting as one clamping member as required by claim 14, line 13 and also a separate roller shaft acting as the other clamping member as indicated in claim 24; “the at least one supporting surface includes one or more pulley shafts” (claim 13, lines 1-2) for both one pulley shaft and separately for another species with “more pulley shafts”; and more than one pulley shaft (claim 27, line 2) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the

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renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

Claims 13, 14, 28 and 29 is objected to because of the following informalities: Both claims 14 and 29 improperly end with two periods. The term "the at least one supporting surface" (claim 13, lines 1-2) lacks clear antecedent basis. Additionally, the term "the supporting surface adjacent the second end" (claim 28, lines 1-2) lacks clear antecedent basis because the supporting surface has not been previously positioned the second end. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 8-11, 13, 19-24 and 27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant defines a shaft in claim 1, line 8 and claim 14, line 13 and then a further "roller shaft" in claim 8, lines 4-5 and claim 19, lines 3-4 acting as the pivot shaft between the inner and other plates.

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This is a double inclusion of the shaft of claims 1 and 14 since the shaft of claims 1 and 14 performs this function and the passages in claims 8 and 19 lacks enablement because it is unknown what other structure would perform this function. Further, there is no enablement to indicate how there can be a shaft acting as one clamping member as required by claim 14, line 13 and also a separate roller shaft acting as the other clamping member as indicated in claim 24. It is suggested that applicant amend claims 8 and 19 to indicate that said shaft is a roller shaft and continue with the remainder of the claims while removing the ambiguity of claim 24. Such an amendment would obviate this rejection of claims 8, 19 and the claims dependent thereon. There is no enablement to determine how the slots are curved in claim 23. With regard to claim 13, “the at least one supporting surface includes one or more pulley shafts” (claim 13, lines 1-2) for both one pulley shaft and separately for another species with “more pulley shafts” lacks enablement as it is not explained how the supporting surface includes a species with one pulley shaft and there is another species with more than one pulley shaft. As to claim 27, “the at least one supporting surface includes one or more pulley shafts” (claim 13, lines 1-2) for a species with “more pulley shafts” lacks enablement as it is not explained how the supporting surface includes a species with more than one pulley shaft so as to permit one of ordinary skill to make and use such a device. The remaining claims are rejected because they depend from rejected claims.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The passage “and successive parts of the outer surface of the first clamping member smoothly merge into one another without any abrupt change of direction so that the webbing is not distorted” (claim 1, lines 12-14; claim 14, lines 17-19; claim 29, lines 16-18) is indefinite because the independent claims do not set forth objective criteria to determine whether the webbing is distorted or not and clearly any distortion of the webbing is a function of the material characteristics of the webbing and the tension placed upon the webbing. A situation can easily exist where the webbing is not distorted when under low web tension while greatly distorted when subjected to high web tension and a similar situation where the webbing could easily be distorted for a given tension when made of an easily distorted material at the given tension as compared to no distortion of the webbing material when made of a material highly resistant to any distortion at the given tension. The claim language does not give notice as to what structure falls within the scope of the claim and instead provides a completely indefinite structure.

Applicant defines a shaft in claim 1, line 8 and claim 14, line 13 and then a further “roller shaft” in claim 8, lines 4-5 acting as the pivot shaft between the inner and other plates. This is a double inclusion of the shaft of claims 1 and 14 since the shaft of claims 1 and 14 performs this function and the passages in claims 8 and 19 are indefinite because it is unknown what other structure would perform this function. Further, it is unclear how there can be a shaft acting as one clamping member as required by claim 14, line 13 and also a separate roller shaft acting as the other clamping member as indicated in claim 24 because this again is a double inclusion

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since there is but one shaft. It is suggested that applicant amend claims 8 and 19 to indicate that said shaft is a roller shaft and continue with the remainder of the claims while removing the ambiguity of claim 24.

A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claims 3, 4 and 5 each recite the broad recitation 4 to 9 mm, and the claim also recites 5 to 8 mm which is the narrower statement of the range/limitation and followed by 6.35 mm which is the narrowest statement of the range/limitation.

The remaining claims are rejected because they depend from rejected claims.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-29 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dennis et al. (WO 00/35711).

The earliest priority claimed by applicant in this case is August 2, 2001 and since the PCT document was published June 22, 2000, it is a reference under 35 U.S.C. 102(b). This prior document clearly shows the structure of applicant's claims in figures 1A through 12 and specifically figures 1A, 1B, 2, 10, 10A, 11 and 12, which are identical to figures 1A through 5, comprising all the figures of this application, and therefore must anticipate the subject matter of this application.

Claims 1, 2, 6 and 7 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Laurisin (US 2079457).

Laurisin (figures 4-6) teaches a webbing tie down assembly, comprising: a clamping mechanism comprising: a first clamping member 20 having a first clamping surface, and a second clamping member 12 having a second clamping surface, the two members being moveable to a clamping position in which the clamping surfaces are substantially together for clamping webbing therebetween, webbing under tension passing around the outer surface of the first clamping member 20 and thence between the clamping surfaces to be clamped to the clamping mechanism, said second clamping member 12 comprises a shaft, and the clamping surface of the first clamping member has a complementary curvature, so that the clamping surfaces of the first and second clamping members lie substantially parallel in the clamping position so that a clamping force on the webbing is distributed over a relatively large surface area of the webbing, and successive parts of the outer surface of the first clamping member smoothly merge into one another without any abrupt change of direction so that the webbing is not

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distorted. Laurisin recognizes that utilizing concave and convex gripping surfaces is beneficial in maintaining a secure connection (col. 2, lines 14-28). Applicant claims a tie down assembly and the device of Laurisin while acting as a device for taking blood pressure is fully capable of being wrapped around articles positioned around a fixed support that together conform in shape and cross-sectional area to an arm and thereby act as a tie down for those articles to the support. The device of Laurisin shows that the first clamping member 20 has an outer surface that merges with the inner surface at surfaces that are not merging to a line so as to be pointed, but have a positive curvature that would permit no distortion to the held webbing when subjected to low tension.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Laurisin (US 2079457) in view of Ishiguro et al. (US 4336636).

Laurisin (figures 4-6) teaches a webbing tie down assembly, comprising: a clamping mechanism comprising: a first clamping member 20 having a first clamping surface, and a second clamping member 12 having a second clamping surface, the two members being moveable to a clamping position in which the clamping surfaces are substantially together for clamping webbing therebetween, webbing under tension passing around the outer surface of the first clamping member 20 and thence between the clamping surfaces to be clamped to the

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clamping mechanism, said second clamping member 12 comprises a shaft, and the clamping surface of the first clamping member has a complementary curvature, so that the clamping surfaces of the first and second clamping members lie substantially parallel in the clamping position so that a clamping force on the webbing is distributed over a relatively large surface area of the webbing, and successive parts of the outer surface of the first clamping member smoothly merge into one another without any abrupt change of direction so that the webbing is not distorted. Laurisin recognizes that utilizing concave and convex gripping surfaces is beneficial in maintaining a secure connection (col. 2, lines 14-28). Applicant claims a tie down assembly and the device of Laurisin while acting as a device for taking blood pressure is fully capable of being wrapped around articles positioned around a fixed support that together conform in shape and cross-sectional area to an arm and thereby act as a tie down for those articles to the support. The device of Laurisin shows that the first clamping member 20 has an outer surface that merges with the inner surface at surfaces that are not merging to a line so as to be pointed, but have a positive curvature that would permit no distortion to the held webbing when subjected to low tension. The difference is that the minimum radius of curvature of the outer surface of the first clamping member is not stated as being, so far as definite, 4 mm. However, Ishiguro (figure 6) teaches a kidney bean shaped clamping member 23 with gently merging outer surfaces having a minimum radius several multiples of the string thickness. It would have been obvious to modify the webbing fastener of Laurisin such that the minimum radius of curvature of the outer surface of the first clamping member is 4 mm in view of Ishiguro teaching the use of a kidney bean shaped clamping member 23 with gently margining outer surfaces having a minimum radius several multiples of the string thickness.

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Claims 8-24 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (US 2852827) in view of Laurisin (US 2079457).

Arnold (figures 1-5) teaches webbing tie down assembly structure including an inner frame 18 and an outer frame 17 having a hook 14 at one end. There are two clamping members 21, 22. One of the clamping members 21 is a cylindrical roller shaft (col. 3, line 5). There is a tensioning mechanism in the placement of the slots 23 for the clamping member 21 that allow it to move slightly so as to further tension the webbing. The difference is that the clamping member 22 does not have a complementary shape to the cylindrical shaft 21. However, the use of complementary shapes so that the clamping effect is enhanced is well known in the buckle art and Laurisin (figures 4-6) teaches a webbing fastener assembly, comprising: a clamping mechanism comprising: a first clamping member 20 having a first clamping surface, and a second clamping member 12 having a second clamping surface, the two members being moveable to a clamping position in which the clamping surfaces are substantially together for clamping webbing therebetween, webbing under tension passing around the outer surface of the first clamping member 20 and thence between the clamping surfaces to be clamped to the clamping mechanism, said second clamping member 12 comprises a shaft, and the clamping surface of the first clamping member has a complementary curvature, so that the clamping surfaces of the first and second clamping members lie substantially parallel in the clamping position so that a clamping force on the webbing is distributed over a relatively large surface area of the webbing, and successive parts of the outer surface of the first clamping member smoothly merge into one another without any abrupt change of direction so that the webbing is not distorted. Laurisin recognizes that utilizing concave and convex gripping surfaces is beneficial

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in maintaining a secure connection (col. 2, lines 14-28). The device of Laurisin shows that the first clamping member 20 has an outer surface that merges with the inner surface at surfaces that are not merging to a line so as to be pointed, but have a positive curvature that would permit no distortion to the held webbing when subjected to low tension. While Laurisin is not used in applicant's field of endeavor and is specifically used as a device to measure blood pressure, it is considered to be analogous art because the desirability of maintaining webbing secured under tension is desirable in low tension environments just as well as in high tension environments and the teaching of an increase in friction by the increased surface area created by complementarily curving the clamping surfaces as done by Laurisin is applicable and certainly a teaching of interest in applications of larger scale tension such as that of Arnold. It would have been obvious to modify the webbing tie down of Arnold so that the clamping member 22 has a complementary shape to the cylindrical shaft 21 in view of the use of complementary shapes being known as desirable to enhance the clamping effect as being well known in the buckle art as evidenced by Laurisin (figures 5, 6) teaching that it is desirable to provide the clamping surface of the frame 19 with a concave curvature to match the shaft 12 so as to better secure the webbing (col. 2, lines 14-28).

Claims 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arnold (US 2852827) in view of Laurisin (US 2079457) as applied to claims above, and further in view of Zimmerman (US 951355).

Further modification of the tensioning device of Arnold so that the hook is mounted to the frame at a pair of securing points would have been obvious in view of Zimmerman (figures 1, 2, 7) in which the hook 31 is mounted to the frame of the tightener structure by two pins 34

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extending through spacers 35 so as to better secure the hook 31 to the frame. As to claim 28, the particular choice of a radius of curvature being a minimum of 6.35 mm is seen as a matter of choosing dimensions and the devices of Arnold and Laurisin would function equally as well.

Conclusion

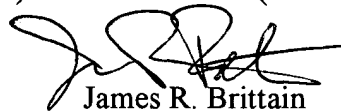
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents of Dewey et al. (US 3407451, figure 4), Kurita et al. (US 4809953, figure 2), Schneider (US 550112, figure 4), Hamann (US 3274656, figure 3), Elsner (US 3413691, figure 2), Harley (US 3091830, figure 2) and Eveland (US 3344486, figures 4, 7) teach pertinent fastener structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is (703) 308-2222. The examiner can normally be reached on M-F 5:30-2:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on (703) 306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James R. Brittain
Primary Examiner
Art Unit 3677

JRB